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EXAMINER

AN, IG TAI

ART UNIT	PAPER NUMBER
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3687

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/665,525	Applicant(s) WERBITT, JULLE M.	
	Examiner Ig T. An	Art Unit 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-141 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 39-55, 57-79, 81-83, 85-93, 110, 112-116, 118, 120, 122-125, 127, 129-136, 139 and 140 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/19/2003, 1/9/2004, 6/16/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 13-23,26,27,29-44,47,49,94,95,97-103,105,107,109,119,121,126,128,137 and 141.

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DETAILED ACTION

This communication is a First Office Action Non- Final Rejection on the merits. Upon the restriction/election, claims 1-12, 39-55, 57-79, 81-83, 85-93, 110, 112-116, 118, 120, 122-125, 127, 129-136, 139, and 140 are elected without traverse. Therefore, Claims 1-12, 39-55, 57-79, 81-83, 85-93, 110, 112-116, 118, 120, 122-125, 127, 129-136, 139, and 140 are currently pending and have been considered below.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1 – 8, 11 – 12, 39, 41 – 42, 44, 49 – 52, 54 – 55, 57 – 59, 61 – 62, 64 – 65, 66 – 70, 73 – 74, 76 – 77, 79, 81, 85 – 87, 90 – 94, 110, 114 – 116, 118, 120, 122 – 125, 127, and 132 - 133 rejected under 35 U.S.C. 103(a) as being unpatentable over Terasse (US 7257547).**

As per Claims 1, 39, 50, 59, 69, 86, 94 and 110, Terasse teaches providing patron units to patrons for use at a venue, wherein the patron units are devices having, wireless communication capability and interactive display screens (Abstract teaches order terminal having wireless communication and touch sensitive screen);

enabling patrons to order items, request services, and/or browse information associated with the venue via the patron units wirelessly (Abstract teaches a user can view contents of service items and order desired item using the patron units which communicate with server wirelessly);

providing portable staff units to staff members of the venue, wherein the portable staff units are wireless devices having interactive display screens (Column 6 line 53 – Column 7 line 7 teaches PHS terminal given to server/waiter/waitress has wireless connection and have interactive display screen such as touch screen);

enabling staff members to view information about orders and/or requests made by the patrons via the portable staff units wirelessly (Column 11 lines 32 – 41 and Column 12 lines 41 – 63 teaches staff view information of game ordering and ordered dishes made by patron); and

displaying locations of the patron units on the display screens of the portable staff units enabling staff members to locate patron units when delivering items and/or servicing requests (Column 13 lines 1 – 23 teaches staff unit displaying dishes and table number where the ordered dishes should be delivered to).

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As per Claims 2 and 61, Terasa teaches offering at least one of interactive video games, music, movies, Internet access, voice and telephony access to patrons via the patron units (Column 11 lines 32 – 41 and Column 12 lines 18 – 22).

As per Claims 3 and 67, Terasa teaches routing orders and/or requests to appropriate fulfillment centers responsible for handling the orders and/or requests for the venue (Column 12 lines 8 – 18).

As per Claims 4, 52 and 68, Terasa teaches routing orders and/or requests to appropriate fulfillment centers responsible for handling the orders and/or requests for the venue and notifying particular portable staff units when specific orders and/or requests are ready for delivery from the appropriate fulfillment centers to the patrons (Column 12 lines 41 – 63).

As per Claims 5, 44, 79, 92 and 116, Terasa teaches further comprising enabling patrons to page staff members for immediate assistance via the patron units (Column 11 lines 32 – 41 and Column 16 lines 48 – 52).

As per Claims 6, 57, 66 and 93, Terasa teaches enabling patrons to request bills via the patron units (Column 13 lines 26 – 55).

As per Claims 7 and 65, Terasse teaches displaying a status of open orders/requests on the portable staff units (Column 12 line 40 – Column 13 lines 25).

As per Claims 8, Terasse teaches displaying on the portable staff units, actions performed by patrons using their patron units as the actions are being performed in real-time (Column 11 lines 32 – 40 and Column 13 lines 26 – 55).

As per Claims 11 and 62, Terasse teaches displaying advertisements on the patron units (Column 12 lines 18 – 24).

As per Claims 12, 49 and 85, displaying advertisements appurtenant to the item ordered and/or service requested by the patrons on the patron units (Column 11 lines 49 – 64 teaches different menu items with descriptions and graphics displayed on the order terminal. The examiner construes that advertising appurtenants to the item ordered is equivalent to the menu item displayed on the order terminal that customer ordered).

As per Claims 41, 64 and 76, Terasse teaches directing the patron unit to display preference information of the patron, special needs/requests of the patron, and/or information associated with the patron from prior visits to the venue (Column 9 lines 23 – 38 and Column 11 lines 47 – 64).

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As per Claims 42 and 77, Terasse teaches directing the patron unit to display real-time status information related to a pending order (Column 12 lines 41 – Column 13 lines 25).

As per Claims 51 and 87, Terasse teaches directing a portable staff unit to indicate whether an order has been delivered to the patron (Column 12 lines 40 – Column 13 lines 23).

As per Claim 54, 90, and 114, Terasse teaches directing a portable staff unit to display patrons that are wirelessly logged onto a wireless network for the venue (Column 6 lines 53 – Column 7 lines 5).

As per Claim 55, 91, 115, Terasse teaches directing a portable staff unit to display real-time activity of the patron which is performed concurrently on a portable patron device (Column 11 lines 31 – 40 and Column 13 lines 26 – 55 teaches real-time communication of patron activity to the PHS terminal).

As per Claim 58, Terasse teaches direct a portable staff unit to display messages received from venue management (Abstract, Column 5 lines 8 – 13 and Column 14 lines 29 – 41 teaches communication between store control unit and the PHS terminals and graphic display send data to store control unit then to PHS terminals).

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As per Claim 70, Terasé teaches wherein the portable patron unit is a dedicated device capable of being handheld and carried by the patron and/or a staff member, the portable patron unit provided to the patron upon checking into the venue or after the patron enters a particular public area of the venue (Column 10 lines 57 – Column 11 lines 21).

As per Claims 73 and 123, Terasé teaches wherein the display device is touch-screen display device (Column 6 lines 45 – Column 7 lines 5).

As per Claim 74, Terasé teaches package configured to provide protection against the sun, suntan lotion, saltwater, chlorine, sand, dirt, food, and/or drink (Column 16 lines 57).

As per Claim 81, Terasé teaches the user interface is further configured to display messages to the patron using the portable patron unit (Column 11 lines 32 – 40).

As per Claims 118, 120, 122, 124, 125, 127, Terasé teaches all the limitations of the claims (refer to Claims 1, 39, 50, 59, 69, 86, 94 and 110) except the use in a stadium/arena.

The Examiner notes, the use in a stadium/arena does not modify the operation of Terasé's method and system, and to have modified the method and system of Terasé to have included the use in a stadium/arena would have been obvious to the skilled artisan

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because the inclusion of such step would have been an obvious matter of design choice in light of the method already disclosed by Teraser. Such modification would not have otherwise affected the method and system of Teraser and would have merely represented one of numerous steps or elements that the skilled artisan would have found obvious for the purposes already disclosed by Teraser. Additionally, applicant has not persuasively demonstrated the criticality of providing this element/step versus the elements/steps disclosed by Teraser. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

As per Claim 132, Teraser teaches the patron unit storing data indicative of a location of the patron unit (Column 10 lines 46 – Column 11 lines 9 teaches that order/table-top terminal hold table location information such as Table No.1 or Table No.2).

As per Claim 133, Teraser does not explicitly disclose wherein the data indicative of the location comprises a room number. Teraser does disclose data indication of the location including table numbers.

The Examiner notes, a room number does not modify the operation of Teraser's method and system, and to have modified the method and system of Teraser to have included a room number would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method and system already disclosed by Teraser. Such modification would not have

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otherwise affected the method and system of Teraser and would have merely represented one of numerous steps or elements that the skilled artisan would have found obvious for the purposes already disclosed by Teraser. Additionally, applicant has not persuasively demonstrated the criticality of providing this step/element versus the steps/elements disclosed by Teraser. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

4. Claims 9 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teraser in view of Mayer et al. (Hereinafter Mayer) (US 20020026364).

As per Claims 9 and 82, Teraser teaches all the elements of the claimed invention but is silent regarding displaying food and beverage specials offered by the venue on the patron units.

Mayer discloses electronic waiter system displaying food and beverage specials offered by the venue on the patron units (Mayer, Paragraph 22).

Therefore, from this teaching of Mayer, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Teraser to include daily specials as taught by Mayer to increase sale on particular products.

Furthermore, all the claimed elements were known in the prior arts of Teraser and Mayer, and one skilled in the art could have combined the elements as claimed by

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known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

5. Claims 10, 47, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terasse in view of Baratz (US 20040054585).

As per Claims 10, 47 and 83, Terasse teaches all the elements of the claimed invention but is silent regarding displaying cross-sell and/or up-sell recommendations based on the items ordered and/or services requested by the patrons.

Baratz discloses sales enhancement system and method for retail businesses displaying cross-sell and/or up-sell recommendations based on the items ordered and/or services requested by the patrons (Paragraph 72 – 75).

Therefore, from this teaching of Baratz, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasse to include upsale feature as taught by Baratz to increase sales and profit.

Furthermore, all the claimed elements were known in the prior arts of Terasse and Baratz, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would

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have yielded predictable results to one of ordinary skill in the art at the time of the invention.

6. Claims 40, 63 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terasse in view of Cogen (US 20020138350).

As per Claims 40 and 63, and 75, Terasse teaches all the elements of the claimed invention but is silent regarding directing the patron unit to display an item previously ordered by the patron to enable the patron to reorder the previously ordered item.

Cogen discloses System and method for placing orders at a restaurant directing the patron unit to display an item previously ordered by the patron to enable the patron to reorder the previously ordered item (Paragraph 10).

Therefore, from this teaching of Cogen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasse to include enabling the customer to order same food as the customer previously ordered as taught by Cogen to enhance customer satisfaction.

Furthermore, all the claimed elements were known in the prior arts of Terasse and Cogen, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the

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invention.

7. Claims 43, 71 – 72, 78, 129 – 131, 139 – 140 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terasa in view of Camaisa et al. (hereinafter Camaisa) (US 5845263).

As per Claims 43, 78, 134 and 139, Terasa teaches all the elements of the claimed invention but is silent regarding directing the patron unit to authenticate the patron before the order and/or service is fulfilled.

Camaisa discloses interactive visual ordering system directing the patron unit to authenticate the patron before the order and/or service is fulfilled (Figure 5 #1300, 1302, 1304 teaches log-in process which is equivalent authenticating patron).

Therefore, from this teaching of Camaisa, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasa to include authenticate the patron before order is fulfilled as taught by Camaisa to deliver the ordered food to appropriate customer.

Furthermore, all the claimed elements were known in the prior arts of Terasa and Camaisa, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the

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invention.

As per Claims 71, 129 -131 and 140, Terasé teaches all the elements of the claimed invention but is silent regarding wherein the portable patron unit is configured to be secured to furniture used by the patron while in a particular public area of the venue.

Camaisa discloses interactive visual ordering system having wherein the portable patron unit is configured to be secured to furniture used by the patron while in a particular public area of the venue (Column 6 lines 27 – 30).

Therefore, from this teaching of Camaisa, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasé to include ordering terminal is securely attached to furniture as taught by Camaisa to prevent the loss of the ordering terminal.

Furthermore, all the claimed elements were known in the prior arts of Terasé and Camaisa, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claim 72, Terasé teaches all the elements of the claimed invention but is silent regarding wherein the display device is large enough to enable a patron with

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myopia to read information displayed on the user interface without having to use corrective optical lenses.

Camaisa discloses interactive visual ordering system having wherein the display device is large enough to enable a patron with myopia to read information displayed on the user interface without having to use corrective optical lenses (Figure 6 – 15).

Therefore, from this teaching of Camaisa, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasa to include ordering terminal is large enough that user does not need optical lenses as taught by Camaisa to prevent the loss of the ordering terminal.

Furthermore, all the claimed elements were known in the prior arts of Terasa and Camaisa, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

8. Claims 52 – 53 and 112 – 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terasa in view of Ragsdale-Elliott et al. (Hereinafter Ragsdale) (US 20020147647).

As per Claims 52 and 112, Terasé teaches all the elements of the claimed invention but is silent regarding directing a portable staff unit to display an order assigned to a particular staff member.

Ragsdale discloses wireless Maitre D' System for restaurants directing a portable staff unit to display an order assigned to a particular staff member (Paragraph 89).

Therefore, from this teaching of Ragsdale, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasé to include display an order assign to a particular staff member as taught by Ragsdale to more effectively manage orders.

Furthermore, all the claimed elements were known in the prior arts of Terasé and Ragsdale, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claims 53 and 113, Terasé teaches all the elements of the claimed invention but is silent regarding directing a portable staff unit to display orders assigned to a particular zone of responsibility.

Ragsdale discloses Wireless Maitre D' System for restaurant directing a portable staff unit to display orders assigned to a particular zone of responsibility (Paragraph 89).

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Therefore, from this teaching of Ragsdale, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Teraser to include display an order assign to a particular zone as taught by Ragsdale to more effectively manage orders.

Furthermore, all the claimed elements were known in the prior arts of Teraser and Ragsdale, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

9. Claims 135 – 139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teraser in view of Walker et al. (Hereinafter Walker) (US 5794207).

As per Claims 135, 137 and 139, Teraser teaches all the elements of the claimed invention but is silent regarding wherein the authentication comprises enabling the patron unit to accept a biometric sample of the patron.

Walker discloses method and apparatus for a cryptographically assisted commercial network system designed to facilitate buyer-driven conditional purchase offers having wherein the authentication comprises enabling the patron unit to accept a biometric sample of the patron (Column 25 lines 35 – Column 26 lines 2).

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Therefore, from this teaching of Walker, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasense to include authenticate the customer using biometric samples as taught by Walker to ensure the food is delivered to correct patron.

Furthermore, all the claimed elements were known in the prior arts of Terasense and Walker, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claims 136 and 138, Terasense teaches all the elements of the claimed invention but is silent regarding wherein said biometric sample is a fingerprint.

Walker discloses method and apparatus for a cryptographically assisted commercial network system designed to facilitate buyer-driven conditional purchase offers having wherein said biometric sample is a fingerprint (Column 25 lines 35 – Column 26 lines 2).

Therefore, from this teaching of Walker, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasense to include authenticate the customer using

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biometric samples such as fingerprint as taught by Walker to ensure the food is delivered to correct patron.

Furthermore, all the claimed elements were known in the prior arts of Terasse and Walker, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suthar (US 20040143503) discloses Restaurant Automation System (US 20040143503).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ig T. An whose telephone number is (571)270-5110. The examiner can normally be reached on Monday - Thursday from 9:30 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
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